

## CHAPTER 8

AN ACT eliminating consumer data collection requirements for certain gift cards, amending section 5 of P.L.2010, c.25 (C.46:30B-42.1).

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

1. Section 5 of P.L.2010, c.25 (C.46:30B-42.1) is amended to read as follows:

C.46:30B-42.1 Presumption of abandonment of stored value card; exceptions; cash redemption.

5. a. A stored value card for which there has been no stored value card activity for five years is presumed abandoned. This subsection shall apply to any stored value card issued on or after July 1, 2010.

b. The proceeds of a general purpose reloadable card presumed abandoned shall be the value of the card, in money, on the date the general purpose reloadable card is presumed abandoned. The proceeds of all other stored value cards presumed abandoned shall be 60% of the value of the card, in money, on the date the stored value card is presumed abandoned.

c. (Deleted by amendment, P.L.2015, c.8)

d. Nothing in this section shall be construed to prevent an issuer from honoring a stored value card, the unredeemed value of which has been reported to the State Treasurer pursuant to R.S.46:30B-1 et seq., and thereafter seeking reimbursement from the State Treasurer pursuant to R.S.46:30B-62.

e. This section does not apply to:

(1) a stored value card that is distributed by the issuer, directly or indirectly, to a person under a promotional, incentive, rewards, or customer loyalty program or a charitable program for which no direct monetary consideration is paid by the owner;

(2) a stored value card that is donated or sold below face value to a nonprofit or charitable organization or an educational organization;

(3) a stored value card that is redeemable for admission to events or venues at a particular location or group of affiliated locations, or for goods or services in conjunction with admission to those events or venues, or both, at the event or venue or at specific locations affiliated with and in geographic proximity to the event or venue; and

(4) a stored value card issued by any issuer that in the past year sold stored value cards with a face value of \$250,000 or less. For purposes of this subsection, sales of stored value cards by businesses that operate either (1) under the same trade name as or under common ownership or control with another business or businesses in the State, or (2) as franchised outlets of a parent business, shall be considered sales by a single issuer.

f. The State Treasurer is authorized to grant an exemption from such provisions concerning stored value cards, on such terms and conditions as the State Treasurer may require, for a business or class of businesses that demonstrate good cause to the satisfaction of the State Treasurer. In exercising his discretion pursuant to this section, the State Treasurer may consider relevant factors including, but not limited to, the amount of stored value card transactions processed, the technology in place, whether or not stored value cards issued contain a microprocessor chip, magnetic strip, or other means designed to trace and capture information about place and date of purchase, and such other factors as the State Treasurer shall deem relevant.

g. Notwithstanding the provisions of this act or any other law to the contrary, only a stored value card which is exempt from the provisions of this act pursuant to subsection e. or

f. of this section shall be deemed a gift card or gift certificate for purposes of P.L.2002, c.14 (C.56:8-110 et seq.).

h. Beginning September 1, 2012 if a stored value card is redeemed and a balance of less than \$5 remains on the card after redemption, at the owner's request the merchant or other entity redeeming the card shall refund the balance in cash to the owner.

A merchant or other entity required to comply with the provisions of this subsection shall be liable to a penalty of \$500 for each violation plus restitution of the amount of the cash value remaining on the stored value card, provided however that the amount of the penalty shall be trebled for an aggregate of 100 such violations occurring during any 12-month period. Failure to provide requested cash redemption for each stored value card shall be considered a separate violation. Upon receiving evidence of any violation of the provisions of this subsection, the Director of the Division of Consumer Affairs, or the director's designee, is empowered to hold hearings upon those violations and upon finding the violation to have been committed, to assess a penalty against the person alleged to have committed the violation in the amounts provided in this subsection. The director shall thereafter return to the owner of the card the amount of the cash value remaining on the card recovered under this subsection, and this shall be the sole remedy available to the owner for those violations.

This subsection does not impose on an issuer or merchant or other entity required to comply with the provisions of this subsection an obligation to advertise the availability of a refund balance redemption. Notwithstanding the foregoing or any provision in section 3 of P.L.1981, c.454 (C.56:12-16), an issuer, seller or redeemer of stored value cards may elect to include a disclosure or may, in the alternative, include a statement on the stored value card or other marketing materials that the card "is not redeemable for cash except as required by law" or similar statement.

This subsection shall not apply to (1) a non-reloadable stored value card with an initial value of \$5 or less; or (2) a stored value card that is not purchased but is provided in lieu of a refund for returned merchandise; or (3) a stored value card that can be redeemed at multiple merchants that are not under common ownership or control, including but not limited to network-branded stored value cards.

i. The funds associated with a stored value card sold on or after December 1, 2012 shall be valid until redemption and shall not expire. However, a stored value card may contain an expiration date to the extent permitted by federal law that applies only to the card or other tangible medium through which the underlying funds can be accessed, provided those underlying funds do not expire.

j. For stored value cards sold on or after December 1, 2012, in addition to the requirements of section 37 of P.L.2002, c.35 (C.46:30B-43.1), no fees or charges shall be imposed on a stored value card except that the issuer may charge (1) an activation, issuance, purchase or similar fee related to the issuance and purchase of a stored value card and for each occurrence of adding value to an existing stored value card; and (2) a replacement card fee with respect to lost, stolen or damaged stored value cards provided that these fees are disclosed in writing prior to issuance or referenced on the stored value card or the stored value card packaging. The State Treasurer may adopt regulations regarding the establishment of activation, issuance, purchase or similar fees, fees for adding value to an existing stored value card, and replacement card fees.

A general purpose reloadable card shall not be subject to the provisions of this subsection.

k. As used in this section:

"Stored value card activity" means the purchase or issuance of the stored value card, a transaction executed by the owner that increased or decreased the value of the stored value

card, or communication by the owner of the stored value card with the issuer of the stored value card concerning the value of the balance remaining on the stored value card as evidenced by a contemporaneous record prepared by or on behalf of the issuer.

"Issuer" means an issuer of a stored value card that is a person, retailer, merchant, vendor, provider or business association with the obligations of a holder to accept the stored value card as redeemable for, solely or a combination of, merchandise, services, or cash, and to report and deliver proceeds of the stored value card if abandoned.

"General purpose reloadable card" means a stored value card issued by a bank or other similarly regulated financial institution or by a licensed money transmitter that is (1) usable and honored upon presentation at multiple merchants or service providers that are not under common ownership or control for goods or services or at automated teller machines, (2) issued in a requested prepaid amount which amount may be, at the option of the issuer, increased in value or reloaded if requested by the cardholder, and (3) not marketed or labeled as a gift card; the term "reloadable card" includes a temporary non-reloadable card issued solely in connection with a reloadable card.

2. This act shall take effect immediately.

Approved February 5, 2015.